

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

KATHERINE J. HOOT, personal
representative of the Estate of
Alexander T. Aneiro (deceased),

Plaintiff,

v.

UNITED STATES OF AMERICA;
DEPARTMENT OF VETERANS
AFFAIRS; MANN-GRANDSTAFF
VA MEDICAL CENTER; and JOHN
AND JANE DOES 1 - 10,

Defendants.

NO: 2:22-CV-0162-TOR

ORDER OF DISMISSAL

Federal Rule of Civil Procedure 4(m) provides that a summons and complaint must be served upon each defendant within 90 days of filing. Rule 4(m) also governs the procedure that a district court must follow in the event that service is not completed within 90 days:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be

1 made within a specified time. But if the plaintiff shows good cause for the
2 failure, the court must extend the time for service for an appropriate period.

3 Fed. R. Civ. P. 4(m). Because of this strict requirement, the Local Civil Rules for
4 this District provide that “plaintiff shall promptly file proof of service of the
5 summons and complaint with the Clerk of Court after service has been
6 accomplished.” LCivR 4(l). Plaintiff has not complied with Local Civil Rule 4(l).

7 According to Federal Rule of Civil Procedure Rule 4(i)(1):

8 To serve the United States, a party must:

- 9 (A)(i) deliver a copy of the summons and of the complaint to the United
10 States attorney for the district where the action is brought—or to an
11 assistant United States attorney or clerical employee whom the United
12 States attorney designates in a writing filed with the court clerk—or
13 (ii) send a copy of each by registered or certified mail to the civil-
14 process clerk at the United States attorney’s office;
15 (B) send a copy of each by registered or certified mail to the Attorney
16 General of the United States at Washington, D.C.; and
17 (C) if the action challenges an order of a nonparty agency or officer of
18 the United States, send a copy of each by registered or certified mail to
19 the agency or officer.

20 On July 1, 2022, a Complaint was filed in this case. ECF No. 1. That was
approximately 138 days ago. On November 3, 2022, this Court entered an Order
to Show Cause why this case should not be dismissed for failure to timely serve the
Summons and Complaint upon each Defendant. Plaintiff has not shown
compliance with Rule 4(i)(1).

1 Plaintiff's response to the Order to Show Cause seeks an additional 30 days
2 to file an amended complaint and effectuate service. ECF No. 4 at 5. Plaintiff
3 gives several reasons why the Complaint was not served but none of which
4 constitute "good cause" or "excusable neglect". Service upon the United States
5 can be accomplished by merely mailing the summons and complaint to three
6 offices by "registered or certified mail".

7 **ACCORDINGLY, IT IS HEREBY ORDERED:**

8 All claims and causes of action in this matter are **DISMISSED** without
9 prejudice.

10 The District Court Executive is hereby directed to enter this Order and
11 Judgment accordingly, furnish copies to counsel of record, and **CLOSE** the file.

12 DATED November 16, 2022.



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A handwritten signature in blue ink that reads "Thomas O. Rice".

THOMAS O. RICE
United States District Judge